

DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on December 1, 2006

These rules become effective on December 31, 2006.

(By the authority conferred on the superintendent of public instruction by sections 1701 and 1703 of 1976 PA 451, MCL 380.1701 and MCL 380.1703, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994)

R 340.1724e, R 340.1724f, R 340.1724g, R 340.1724h, and R 340.1724i of the Michigan Administrative Code are added to the Code as follows:

PART 2  
EVALUATION, ELIGIBILITY, STUDENT ASSIGNMENT, AND  
DUE PROCESS PROCEDURES

R 340.1724e State due process hearings; application; effective date; reimbursement.

Rule 24e. Effective immediately, R 340.1724e, R 340.1724f, R 340.1724g, R 340.1724h, and R 340.1724i apply to special education due process hearings and state level reviews of local due process hearing decisions. R 340.1724e, R 340.1724f, R 340.1724g, R 340.1724h, and R 340.1724i also apply to any due process proceeding required by a judicial order of remand rendered after July 1, 2006.

R 340.1724f State due process hearings; procedures.

Rule 24f. (1) Due process hearings under this rule shall be administered by the Department of Education.

(2) A parent, a public agency, or the Department of Education may initiate a hearing by filing a written due process hearing complaint with the Department of Education as required by 20 U.S.C. § 1415(b) and by providing a copy of the due process hearing complaint to the other parties.

(3) A hearing may be initiated on matters related to any of the following:

- (a) Identification.
- (b) Evaluation.
- (c) Educational Placement.
- (d) Provision of a free appropriate public education.
- (e) Provision of appropriate Part C services to the child or the child's family.
- (f) Assignment of financial obligations for Part C services to the parents.
- (g) Determination that behavior was not a manifestation of the student's disability.
- (h) Determination of an appropriate interim alternative educational setting by the individualized education program team.
- (i) Placement in an interim alternative setting for not more than 45 school days, because maintaining the current placement is substantially likely to result in injury to the student or others.

August 18, 2006

(4) Upon receipt of a due process hearing complaint filed under subrule (2) of this rule on or after, July 1, 2006, the Department of Education will forward the request to the State Office of Administrative Hearings and Rules who will appoint an Administrative Law Judge to conduct a hearing in accordance with the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1401 *et. seq.*, the Michigan Mandatory Special Education Act, MCL 380.1701 *et. seq.* and R 340.1883 to R 340.1885.

(5) Any party who is aggrieved by the final decision in a hearing conducted under this rule may not request a state level review under R 340.1724(6). Any party who is aggrieved by the final decision in a hearing conducted under this rule may appeal to a court of competent jurisdiction within 90 days after the mailing date of the final decision.

(6) In the absence of an appeal, unless otherwise specified in the Administrative Law Judge's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

#### R 340.1724g State review decisions.

Rule 24g. (1) State reviews authorized by 2000 AACCS, R 340.1724(6) and originating from a due process hearing complaint filed before July 1, 2006 shall be administered by the Department of Education.

(2) Upon receipt of a request for a state review filed under subrule (1) of this rule, the Department of Education will forward the request to the State Office of Administrative Hearings and Rules who will appoint an Administrative Law Judge to conduct the review in accordance with the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1401 *et. seq.*, the Michigan Mandatory Special Education Act, MCL 380.1701 *et. seq.* and R 340.1883 to R 340.1885.

(3) Any party who is aggrieved by the final decision in a state review conducted under this rule may appeal to a court of competent jurisdiction within 90 days after the mailing date of the final decision.

(4) In the absence of an appeal, unless otherwise specified in the Administrative Law Judge's state review decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

(5) To the extent consistent with these rules, the state review process is governed by R 340.1724(6).

#### R 340.1724h Administrative Law Judge training.

Rule 24h. The Department of Education, in conjunction with the State Office of Administrative Hearings and Rules, will assure that Administrative Law Judges conducting hearings under these rules will be trained, as needed, regarding administrative law, administrative procedure, special education law, special education rules, special education policy, and special education practice.

#### R 340.1724i Reimbursement.

Rule 24i. For purposes of MCL 380.1752, this rule replaces R 340.1882(4), which was rescinded. The district of residence or public school academy shall reimburse the State 75% of the costs related to providing the due process hearing.